

agency a higher gross operating weight with respect to the truck-tractor during the same taxable period (except for a special temporary permit), A would then be liable for additional tax as determined under paragraph (c)(3) of § 41.4481-1.

Example (2). Assume the same facts as in example (1), except that on one occasion during the taxable period, A was issued a special 2-day permit to use his truck-tractor in State Y to haul a load which would give A's unit a total gross weight of 80,000 pounds. A may still declare the taxable gross weight of his unit to be no less than 60,000 pounds because special permits to haul heavier loads on a temporary basis are not considered in determining the taxable gross weight of a vehicle.

Example (3). C owns and has registered in his name 2 trucks which are identical in all respects and which are used to carry the same type of load. The first vehicle is registered only in State X at a registered weight of 73,000 pounds based on a declared gross weight of 70,000 pounds. The second vehicle is registered only in State Y at a registered weight of 68,000 pounds based on a declared gross weight of 65,000 pounds. No other declarations of gross weight are made with respect to either vehicle. For purposes of the Federal heavy vehicle use tax, the taxable gross weight of the vehicle registered in State X may be declared at no less than 70,000 pounds and the taxable gross weight of the vehicle registered in State Y may be declared at no less than 65,000 pounds even though the vehicles are identical.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7931, June 23, 1964; T.D. 7011, 34 FR 7448, May 8, 1969; T.D. 8027, 50 FR 21247, May 23, 1985; T.D. 8879, 65 FR 17153, Mar. 31, 2000]

§ 41.4482(c)-1 Definition of State, taxable period, use, and customarily used.

(a) *State.* State includes any State, any political subdivision of a State, the District of Columbia, and, to the extent provided by section 7871, any Indian tribal government.

(b) *Taxable period.* For the definition of *taxable period*, see section 4482(c).

(c) *Use.* The term "use", as used in the regulations in this part with reference to a highway motor vehicle, means the use of the highway motor vehicle on the public highways in the United States, that is, operation of the vehicle, by means of its own motor, on any roadway (whether a Federal highway, State highway, city street, or otherwise) in the United States which is

not a private roadway. Thus, for purposes of the tax, there is no use of a highway motor vehicle while the vehicle is in "dead storage". The term "use" does not include operation of a new highway motor vehicle on a public highway in the United States if such operation is merely for the purpose of transporting the vehicle from the point of manufacture or assembly to the consumer, whether direct or with intermediate deliveries to such points as are involved in the distribution process. For example, operation of a new vehicle for the purpose of delivering it from the factory to a branch establishment of the manufacturer, or from the factory or branch establishment to a dealer, distributor, or consumer, does not constitute use of the vehicle within the meaning of the regulations in this part; likewise, the further operation of the vehicle by a dealer or distributor for the purpose of delivering the vehicle to a consumer does not constitute use of the vehicle. Similarly, the operation of a secondhand highway motor vehicle by a dealer or distributor for the purpose of delivering the vehicle to a purchaser does not constitute use of the vehicle within the meaning of the regulations in this part. Furthermore, the term "use" does not include operation of a new or secondhand highway motor vehicle, if such operation is exclusively for the purpose of demonstration of the vehicle by a dealer in, or distributor of, new or secondhand highway motor vehicles. Operation of a highway motor vehicle on a private roadway, or other private property, does not constitute use of the vehicle within the meaning of the regulations in this part.

(d) *Customarily used.* A semitrailer or trailer is treated as *customarily used* in connection with a highway motor vehicle if the vehicle is equipped to tow the semitrailer or trailer.

[T.D. 7409, 41 FR 9877, Mar. 8, 1976, as amended by T.D. 7505, 42 FR 42856, Aug. 25, 1977; T.D. 8027, 50 FR 21248, May 23, 1985; T.D. 8159, 52 FR 33584, Sept. 4, 1987; T.D. 8879, 65 FR 17154, Mar. 31, 2000]

§ 41.4483-1 State exemption.

Use of a highway motor vehicle by a State is exempt from the tax imposed by section 4481. For this purpose, the term *use by a State* means the operation

by a State on the public highways in the United States of any highway motor vehicle, whether or not such highway motor vehicle is owned by the State.

[T.D. 8879, 65 FR 17154, Mar. 31, 2000]

§ 41.4483-2 Exemption for certain transit-type buses.

(a) *In general.* Use in any taxable period, or part thereof, of any bus of the transit type by any person who is engaged in the operation of a transit system is exempt from the tax, if such person meets the 60-percent passenger fare revenue test provided for in paragraph (e) of this section, for the applicable period prescribed in paragraph (c) of this section as the test period for such person for such system for such taxable period, or part thereof.

(b) *Buses of the transit type.* The term “transit type”, when used in the regulations in this part with reference to a bus, means the type of bus which is designed for the mass transportation of persons within an urban area, as distinguished from the intercity-type bus. A transit-type bus is ordinarily distinguishable from an intercity-type bus by comparison of seats, doors, and baggage facilities. The transit-type bus usually has straight-back seats of the bench type, while the intercity-type bus generally has seats which either can be reclined or are in fact permanently fixed in a reclining position. The transit-type bus is more likely to have an accordion or folding-type door at the front of the bus, and often has a second door in the middle or at the rear for passengers to leave the bus, as opposed to the emergency-type rear door which may or may not be included in the intercity-type bus. The typical transit-type bus does not have facilities for storing baggage whereas the typical intercity-type bus has facilities for storing baggage in a compartment underneath the floor of the bus or in overhead racks, or both. Other characteristics which may be taken into account in distinguishing a transit-type bus from an intercity-type bus include gear ratios, acceleration and maximum speed, and aisle space for standees. The transit-type bus ordinarily has a lower gear ratio to provide for quick starts and because, in general, buses of this

type are operated at low speeds. The intercity-type bus ordinarily has a higher gear ratio and can be operated at much higher speeds. The transit-type bus usually has wider aisles, with overhead straps or bars to accommodate standees.

(c) *Test period.* (1) In the case of any person who is engaged in the operation of a transit system at any time in the calendar quarter immediately preceding July 1 of any taxable period, the test period for such system for such taxable period shall be such calendar quarter. However, if passenger fare revenue from scheduled service described in paragraph (e) of this section was derived on less than 30 days during such calendar quarter from operation of such system, the test period for such system for such taxable period shall be the last preceding test period for such system. If such system has no preceding test period, then the test period for such system for such taxable period shall be the calendar quarter beginning with July 1 of such taxable period.

(2) Except as otherwise provided in subparagraph (3) of this paragraph, in the case of any person who commences operation of a transit system at any time on or after July 1 of any taxable period the test period for such system for that part of such taxable period beginning with the first day on which such operation was commenced shall be the calendar quarter in which falls such first day. However, if passenger fare revenue from scheduled service described in paragraph (e) of this section was derived on less than 30 days during such calendar quarter from operation of such system, the test period for such system for such taxable period shall be the following calendar quarter.

(3) In the case of any person who commences operation of a transit system at any time in the last calendar quarter to which the tax imposed by section 4481 applies, such last calendar quarter shall be the test period for such transit system regardless of the number of days in which passenger fare revenue is derived in such calendar quarter.

(d) *Transit system.* The term “transit system”, as used in the regulations in